

1 DANIEL M. PETROCELLI (S.B. #97802)
dpetrocelli@omm.com
2 MATTHEW T. KLINE (S.B. #211640)
mkline@omm.com (Lead Counsel)
3 ASHLEY PEARSON (S.B. #281223)
apearson@omm.com
4 O'MELVENY & MYERS LLP
5 1999 Avenue of the Stars, 7th Floor
Los Angeles, CA 90067-6035
6 Telephone: (310) 553-6700
Facsimile: (310) 246-6779

7 Attorneys for Defendants
8 Warner Bros. Entertainment Inc.,
Katja Motion Picture Corp., and
9 New Line Productions, Inc.

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 TERRY T. GERRITSEN, an individual,

13 Plaintiff,

14 v.

15 WARNER BROS. ENTERTAINMENT
16 INC., a Delaware corporation; KATJA
MOTION PICTURE CORP., a
17 California corporation; and NEW LINE
18 PRODUCTIONS, INC., a California
corporation,

19 Defendants.
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Case No. CV14-3305-MMM (CWx)

**DECLARATION OF ASHLEY
PEARSON IN SUPPORT OF
DEFENDANTS' MOTION TO
DISMISS PLAINTIFF'S
COMPLAINT**

The Hon. Margaret M. Morrow

Hearing Date: Sept. 15, 2014
Hearing Time: 10:00 a.m.
Courtroom: 780

DECLARATION OF ASHLEY PEARSON

I, Ashley Pearson, do hereby declare:

1. I am an attorney at law, licensed to practice in the State of California. I am an associate at O'Melveny & Myers LLP, counsel of record for Defendants Warner Bros. Entertainment Inc., Katja Motion Picture Corp., and New Line Productions, Inc. (collectively, "Defendants"), in this case. I make this declaration in support of Defendants' Motion To Dismiss Plaintiff's Complaint. I have personal knowledge of the facts set forth below.

Meet-and-Confer Efforts

2. On June 9, 2014, pursuant to Local Rule 7-3, I sent an email to Plaintiff's counsel, Glen Kulik, attaching a meet-and-confer letter from my colleague Matt Kline. A true and correct copy of the email and accompanying letter, including an attachment, is attached hereto as Exhibit F.

3. On June 16, 2014, Mr. Kline and I met-and-conferred telephonically with Mr. Kulik to discuss our clients' respective positions concerning this lawsuit, and specifically, Defendants' Motion to Dismiss. Plaintiff declined to dismiss or amend her complaint to address the issues we raised in our Rule 7-3 discussions.

4. Attached hereto as Exhibit B is a true and correct copy of a document titled Assignment Agreement, dated as of January 1, 2010, which was incorporated by reference into Plaintiff's complaint, even if only generically. Compl. ¶ 20 ("In or about 2008, WB acquired control of New Line and Katja by means of a corporate transaction. Gerritsen is *informed and believes*, and on that basis alleges, that *by virtue of the transaction the rights and duties of Katja and New Line under the Contract and Guaranty were transferred and assigned* to WB so that as of 2008 WB owned and still owns today the motion picture rights to the book.") (emphases added). Our clients provided a copy of this Assignment Agreement to Plaintiff on June 6, 2014, and the Assignment Agreement, by its express terms, does not encompass Plaintiffs' 1999 agreements. Plaintiff and her counsel have not disputed

1 the authenticity of the Assignment Agreement, but on June 19, 2014, did object to
 2 the Court's considering it in connection with this motion. A true and correct copy
 3 of the parties' email exchange on this subject is attached hereto as Exhibit G.

4 **Other Exhibits**

5 5. Attached hereto as Appendix 1 is a chart describing the respective
 6 sequences of events in the book *Gravity* written by Plaintiff and the movie *Gravity*
 7 produced by Warner Bros. My colleague Jennifer Middleton and I prepared the
 8 chart based on our review of the two works. We have lodged copies of the physical
 9 book and physical DVD as well in a separate filing.

10 6. Attached hereto as Exhibit A is a true and correct copy of the outside
 11 and inside front cover, first page, and outside back cover of the book *Gravity*.

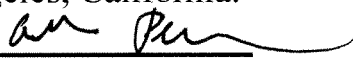
12 7. Attached hereto as Exhibit C is a true and correct copy of the outer
 13 packaging, or "sleeve," for the movie *Gravity*.

14 8. Attached hereto as Exhibit D is a true and correct copy of a print-out
 15 from the website titled "The Official Blog of Bestselling Author Tess Gerritsen,"
 16 dated October 7, 2013, and available at <http://www.tessgerritsen.com/day-seven/>
 17 (last visited June 17, 2014).

18 9. Attached hereto as Exhibit E is a true and correct copy of a print-out of
 19 an article titled "Pull of 'Gravity' doesn't extend to Gerritsen novel," dated October
 20 8, 2013, and published on a website called Banner Graphic, available at
 21 <http://www.bannergraphic.com/story/2011734.html> (last visited June 18, 2014).

22 10. Attached hereto as Exhibit G is a true and correct copy of an email
 23 chain between Mr. Kline and Mr. Kulik, dated June 12-19, 2014.

24 I declare under penalty of perjury under the laws of the State of California
 25 and the United States that the foregoing is true and correct, and that this declaration
 26 was executed this 20th day of June 2014 at Los Angeles, California.

27 
 28 Ashley Pearson

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